

MMS to offer royalty oil for sale to eligible refiners only for use in their refineries and not for resale (other than under an exchange agreement).

(2) All sales of royalty oil from on-shore leases will be priced at the royalty value that would have been determined for that oil pursuant to 30 CFR part 206 had the royalties been paid in value rather than taken in kind. All sales of royalty oil from OCS leases will be priced at the fair market value of the oil including associated transportation costs to the designated delivery point, if applicable.

(3) An eligible refiner must have a representative at a sale in order to participate. The Secretary may, at his or her discretion, establish purchase limitations and withhold any royalty oil from any offering.

(c) Upon a determination by the Secretary under paragraph (a) of this section that eligible refiners do have access to adequate supplies of crude oil at equitable prices, MMS will not take royalties in kind from oil and gas leases for exclusive sale to such refiners. Such determinations may be made on a regional basis.

(d) *Interim sales.* The MMS generally will not conduct interim sales. However, interim sales may be held at the discretion of the Secretary if substantial additional royalty oil becomes available. The potentially eligible refiners, individually or collectively, must submit documentation demonstrating that adequate supplies of crude oil at equitable prices are not available for purchase. Although sufficient documentation must be submitted, it is not mandatory for each potentially eligible refiner to participate in a submission of such documentation to be determined eligible. The documentation must be submitted to MMS for a determination as to whether an interim sale is needed.

[52 FR 41913, Oct. 30, 1987, as amended at 66 FR 28657, May 24, 2001]

#### § 208.5 Notice of royalty oil sale.

If the Secretary decides to take royalty oil in kind for sale to eligible refiners, MMS will issue a "Notice of Availability of Royalty Oil" specifying the manner in which the sale is to be effected, the approximate quantity of

royalty oil to be offered, information required in applications, the closing date for the receipt of applications for royalty oil, and other general administrative details concerning the application, allocation, and contract award process for the royalty oil. The Notice will describe generally the terms under which the royalty oil contracts will be awarded and will specify which applicants will be deemed preference eligible refiners in the sale proceedings. The Notice will also contain guidelines for reallocation procedures in the event substantial quantities of royalty oil sold in that specific sale are subsequently turned back to MMS. Only those purchasers that hold ongoing contracts from that specific sale will be allowed to participate in any reallocation, which would be voluntary, and then only if they continue to meet eligibility requirements as set forth in 30 CFR 208.2 and 208.7. If a reallocation is held prior to the effective date of the contracts as specified in the "Notice of Availability of Royalty Oil", all eligible refiners that selected a lease or leases in that specific sale would be allowed to participate, pursuant to the procedures in the Notice.

#### § 208.6 General application procedures.

(a) To apply for the purchase of royalty oil, an applicant must file a Form MMS-4070 with MMS in accordance with instructions provided in the "Notice of Availability of Royalty Oil" and in accordance with any instructions issued by MMS for completion of Form MMS-4070. The applicant will be required to submit a letter of intent from a qualified financial institution stating that it would be granted surety coverage for the royalty oil for which it is applying, or other such proof of surety coverage, as deemed acceptable by MMS. The letter of intent must be submitted with a completed Form MMS-4070.

(b) In addition to any other application requirements specified in the Notice, the following information is required on Form MMS-4070 at the time of application:

(1) Name and address of the applicant, the location of the applicant's refinery or refineries, and disclosure of